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10/698,839	10/31/2003	Robert Silman	04488/000M686-US0	1275

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MADAMBA, CLIFFORD B	

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3609	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)
	10/698,839	SILMAN, ROBERT
	Examiner	**Art Unit**
	Clifford Madamba	3609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-60* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-60* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *31 October 2003*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Status of Claims

1. This action is in reply to Application 10/698,839 filed on October 31, 2003.

2. Claims 1-60 are currently pending and have been examined.

Information Disclosure Statement

3. The Information Disclosure Statement filed on October 31, 2003 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections – 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-4, 6, 8, 10, 12, 14-16, 18, 20-31, 33-35, 37, 40, 42, 44-46, 48-49, 51-60 are rejected under U.S.C. 103(a) as being unpatentable over Scotto et al., U.S. Publication 2003/0216926 in view of Barry, Financial Management, v23, n3, Autumn 1994.

6. As per claim 1, Scotto teaches *a portfolio investment method comprising the following limitations:*

- *Determining a first commercial capitalization for each of the plurality of startup investments; determining at least a second commercial capitalization for each of the plurality investments; determining a maximum capitalization for each of the plurality of investments, which equals the sum of the first, and the second commercial capitalizations for each of the plurality of investments; and, determining a portfolio capitalization;* disclosing a first stage approach for launching the business and performing a second stage approach for maturing the business (see at least paragraph 6, lines 3-6); including the need to determine resource estimates and investment requirements for each project (see at least paragraph 61, lines 9-14);

- *Determining at least one milestone for each of the plurality of investments;* disclosing the need to determine key milestones (see at least paragraph 55, lines 12-13);

- *Receiving a capital contribution from at least one investor, wherein a sum of the capital contribution from the at least one investor is greater than or equal to the portfolio capitalization; and, investing a first portion of the capital contribution into each of the plurality of investments, wherein the allocation of the first portion to each of the plurality of investments is less than or equal to the first commercial capitalization of each of the plurality investments*; disclosing the eventual investing of resources by investors (see at least paragraph 30, line 5);

- *Determining if a milestone for each of the plurality of investments is met, wherein the plurality of investments where a milestone is met are milestone investments and the plurality of investments where a milestone is not met are restricted investments;* disclosing the need to determine whether a venture is on track to achieve its financial goals (see at least paragraph 73, lines 27-28) as well as specific determinations that include whether the venture should continue or not (see at least paragraph 73, lines 35-36);

- *Permitting the investment of a second portion of the capital contribution into each of the milestone investments, wherein the second portion is less than or equal to the second commercial capitalization of each milestone investment;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 6); upon determination of whether the venture should continue or not (see at least paragraph 73, lines 34-36); and,

- *Forbidding investment in the restricted investments other than the first commercial capitalization;* disclosing the stopping and/or refining of existing projects as needed (see at least paragraph 87, lines 6-7).

Scotto does not explicitly teach the *selection of a portfolio comprising a plurality of startup investments.* Barry, however, discloses where investors in private venture capital funds place their money in the hands of venture capitalists who seek out promising ventures, eventually placing money in risky ventures managed by entrepreneurs (see at least section I). It would have been obvious to one of ordinary skill in the art at the time

of the invention to expand the methodology of Scotto to include the selection of a portfolio comprising a plurality of startup investments. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of diversifying risks and minimizing losses from investments.

7. As per claim 2, Scotto/Barry teaches the method of claim 1 as described above. Scotto does not explicitly teach the method *wherein the above steps are performed by a fund.* Barry, however, discloses where investors in private venture capital funds place their money in the hands of venture capitalists who seek out promising ventures, eventually placing money in risky ventures managed by entrepreneurs (see at least section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method wherein the above steps are performed by a fund. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of having the fund, acting on behalf of third parties, actively monitor the investments.

8. As per claim 3, Scotto/Barry teaches the method of claim 2 as described above. Scotto further teaches the *method comprising: returning all of an unspent portion of the first commercial capitalization and a full amount of the second commercial capitalization of the restricted investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) as well as determining whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25).

9. As per claim 4, Scotto/Barry teaches the method of claim 3 as described above. Scotto further teaches the *method comprising: earning a restricted profit from the restricted investments; and returning the restricted profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21).

10. As per claim 6, Scotto/Barry teaches the method of claim 5 as described above. Scotto doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance.* Barry, however, discloses an investment embodiment enabling investors' claims to a venture's cash flow and to distributions in liquidation in the event that a venture is unsuccessful as well as a feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

11. As per claim 8, Scotto/Barry teaches the method of claim 7 as described above. Scotto further teaches the *method comprising: returning the unspent portion of the second commercial capitalization of the milestone investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) as well as determining whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25).

12. As per claim 10, Scotto/Barry teaches the method of claim 9 as described above. Scotto further teaches the *method comprising: earning a second milestone profit from the milestone investment after investing the second portion; and, returning a full amount of the second milestone profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21).

13. As per claim 12, Scotto/Barry teaches the method of claim 11 as described above. Scotto doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance.* Barry, however, discloses an investment embodiment providing investors with a claim to a venture's cash flow and to distributions in liquidation in the event that the venture is unsuccessful as well as a

feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

14. As per claim 14, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method wherein the portfolio capitalization is greater than or equal to the sum of the maximum capitalizations for the plurality of investments;* disclosing the need to determine what funding is available; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15).

15. As per claim 15, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising:*

- *Determining a seed capitalization for each of the plurality of investments; and, determining the maximum capitalization for each of the investments which equals the sum of the seed capitalization, and the first and the second commercial*

capitalizations for each of the plurality of investments; disclosing the need to determine resource estimates and investment requirements for each project (see at least paragraph 61, lines 9-14); including determining what level of funding must be achieved for launch and initial operations (see at least paragraph 41, lines 15-16);

- *Prior to investing the first portion, investing a seed portion of the capital contribution into each of the plurality of investments, wherein the allocation of the seed portion to each of the plurality of investments is less than or equal to the seed capitalization of each of the plurality of investments;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 6).

16. As per claim 16, Scotto/Barry teaches the method of claim 15 as described above. Scotto does not explicitly teach the method *wherein the above steps are performed by a fund.* Barry, however, discloses where investors in private venture capital funds place their money in the hands of venture capitalists who seek out promising ventures, eventually placing money in risky ventures managed by entrepreneurs (see at least section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method wherein the above steps are performed by a fund. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of having the fund, acting on behalf of third parties, actively monitor the investments.

17. As per claim 18, Scotto/Barry teaches the method of claim 15 as described above. Scotto doesn't explicitly teach the *method wherein the seed capitalization comprises only the rights in the investment.* Barry, however, teaches the usage of rights by investors wherein, for instance, the investor retains the right to abandon by refusing to continue to meet commitments to invest beyond the initial capital infusion (see at least section III). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method wherein the seed capitalization comprises only the rights in the investment. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of preventing excessive risk taking by entrepreneurs.

18. As per claim 20, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising: prior to the receiving step, informing the investor of the first commercial capitalization, the second commercial capitalization, and the maximum capitalization for each of the plurality of investments and the portfolio capitalization;* disclosing the need to determine what funding is available for a venture; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15).

19. As per claim 21, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising: prior to the receiving step, informing the investor of the milestone for each of the investments;* disclosing the need to determine key milestones (see at least paragraph 55, lines 12-13).

20. As per claim 22, Scotto/Barry teaches the method of claim 15 as described above. Scotto further teaches the *method comprising: prior to the receiving step, informing the investor of the seed capitalization, the first commercial capitalization, the second commercial capitalization, and the maximum capitalization for each of the plurality of investments and the portfolio capitalization;* disclosing the need to determine what funding is available; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15).

21. As per claim 23, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising: receiving a plurality of capital contributions from a plurality of investors, wherein a sum of the plurality of capital contributions is greater than or equal to the portfolio capitalization;* disclosing the eventual investing of resources (see at least paragraph 30, line 5).

22. As per claim 24, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising:*

- *Receiving a plurality of capital contributions from a plurality of investors, wherein a sum of the plurality of capital contributions is less than the portfolio capitalization;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 5); and

- *Optionally, reducing the portfolio capitalization, by removing at least one of the plurality of investments, to approximately equal the sum of the plurality of capital*

contributions; and, optionally, returning the plurality of capital contributions to the plurality of investors; disclosing the need to determine what funding is available; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15).

23. As per claim 25, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising: receiving a plurality of capital contributions from a plurality of investors, wherein each of the plurality of capital contributions is of equal value;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 5).

24. As per claim 26, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising: receiving a plurality of capital contributions from a plurality of investors, wherein each of the plurality of capital contributions is of varied value;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 5).

25. As per claim 27, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising: receiving a plurality of capital contributions from a plurality of investors, wherein each of the plurality of capital contributions is of a tiered value;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 5).

26. As per claim 28, Scotto teaches a portfolio investment method comprising:

- *Determining at least one milestone for each of the staged investments;* disclosing the need to determine key milestones (see at least paragraph 55, lines 12-13);

- *Determining a first commercial capitalization for each of the plurality of startup investments; determining at least a second commercial capitalization for each of the staged investments; determining a maximum capitalization for each of the plurality investments, which equals the sum of the first and the second commercial capitalizations for each of the plurality of investments and, determining a portfolio capitalization;* disclosing a first stage approach for launching the business and performing a second stage approach for maturing the business (see at least paragraph 6, lines 3-6); including the need to determine resource estimates and investment requirements for each project (see at least paragraph 61, lines 9-14);

- *Receiving a capital contribution from at least one investor, wherein a sum of the capital contribution from the at least one investor equals the portfolio capitalization; and, investing a first portion of the capital contribution into each of the plurality of investments, wherein the allocation of the first portion to each of the plurality of investments is less than or equal to the first commercial capitalization of each of the plurality investments;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 5);

- *Determining if the milestone for each of the staged investments is met, wherein the staged investments where the milestone is met are milestone investments and the staged investments where the milestone is not met are restricted investments;* disclosing the need to determine whether a venture is on track to achieve its financial goals (see at least paragraph 73, lines 27-28) as well as specific determinations that include whether the venture should continue or not (see at least paragraph 73, lines 35-36);

- *Permitting the investment of a second portion of the capital contribution into each of the milestone investments, wherein the second portion is less than or equal to the second commercial capitalization of each milestone investment;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 6); upon determination of whether the venture should continue or not (see at least paragraph 73, lines 34-36); and,

- *Forbidding investment in the restricted investments other than the first commercial capitalization;* disclosing the stopping and/or refining of existing projects as needed (see at least paragraph 87, lines 6-7).

Scotto does not explicitly teach the *selection of a portfolio comprising a plurality of startup investments including limited investments and staged investments.* Barry, however, discloses where investors in private venture capital funds place their money in the hands of venture capitalists who seek out promising ventures, eventually placing money in risky ventures managed by entrepreneurs (see at least section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand

the methodology of Scotto to include the selection of a portfolio comprising a plurality of startup investments including limited investments and staged investments. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of diversifying risks and minimizing losses from investments.

27. As per claim 29, Scotto/Barry teaches the method of claim 28 as described above. Scotto does not explicitly teach the method *wherein the above steps are performed by a fund.* Barry, however, discloses where investors in private venture capital funds place their money in the hands of venture capitalists who seek out promising ventures, eventually placing money in risky ventures managed by entrepreneurs (see at least section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method wherein the above steps are performed by a fund. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of having the fund, acting on behalf of third parties, actively monitor the investments.

28. As per claim 30, Scotto/Barry teaches the method of claim 29 as described above. Scotto further teaches the *method comprising: returning an unspent portion of the first commercial capitalization of the limited investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) including determining whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25).

29. As per claim 31, Scotto/Barry teaches the method of claim 29 as described above. Scotto further teaches the *method comprising: earning a limited profit from the limited investments; and, returning the limited profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21).

30. As per claim 33, Scotto/Barry teaches the method of claim 32 as described above Scotto also doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance.* Barry, however, discloses an investment embodiment enabling investors' claims to a venture's cash flow and to distributions in liquidation in the event that a venture is unsuccessful as well as a feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been

motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

31. As per claim 34, Scotto/Barry teaches the method of claim 29 as described above. Scotto further teaches the *method comprising: returning all of an unspent portion of the first commercial capitalization and a full amount of the second commercial capitalization of the restricted investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) as well as determining whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25).

32. As per claim 33, Scotto/Barry teaches the method of claim 34 as described above. Scotto further teaches the *method comprising: earning a restricted profit from the restricted investments; and, returning the restricted profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21).

33. As per claim 37, Scotto/Barry teaches the method of claim 36 as described above. Scotto also doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance.* Barry, however, discloses an

investment embodiment enabling investors' claims to a venture's cash flow and to distributions in liquidation in the event that a venture is unsuccessful as well as a feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

34. As per claim 40, Scotto/Barry teaches the method of claim 39 as described above. Scotto further teaches the *method comprising: earning a second milestone profit from the milestone investment after investing the second portion; and, returning a full amount of the second milestone profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21).

35. As per claim 42, Scotto/Barry teaches the method of claim 41 as described above. Scotto also doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of*

the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. Barry, however, discloses an investment embodiment enabling investors' claims to a venture's cash flow and to distributions in liquidation in the event that a venture is unsuccessful as well as a feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

36. As per claim 44, Scotto/Barry teaches the method of claim 28 as described above. Scotto further teaches the *method wherein the portfolio capitalization is greater than or equal to the sum of the maximum capitalizations for the plurality of investments;* disclosing the need to determine what funding is available; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15).

37. As per claim 45, Scotto/Barry teaches the method of claim 28 as described above. Scotto further teaches the *method comprising:*

- *Determining a seed capitalization for each of the plurality of investments; and, determining the maximum capitalization for each of the investments which equals the sum of the seed capitalization, and the first and the second commercial capitalizations for each of the plurality of investments;* disclosing the need to determine resource estimates and investment requirements for each project (see at least paragraph 61, lines 9-14); including determining what level of funding must be achieved for launch and initial operations (see at least paragraph 41, lines 15-16);

- *Prior to investing a first portion, investing a seed portion of the capital contribution into each of the plurality of investments, wherein the allocation of the seed portion to each of the plurality of investments is less than or equal to the seed capitalization of each of the plurality of investments;* disclosing the eventual investing of resources by investors (see at least paragraph 30, line 5);

38. As per claim 46, Scotto/Barry teaches the method of claim 45 as described above. Scotto does not explicitly teach the *method wherein the above steps are performed by a fund.* Barry, however, discloses where investors in private venture capital funds place their money in the hands of venture capitalists who seek out promising ventures, eventually placing money in risky ventures managed by entrepreneurs (see at least section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method wherein the above steps are performed by a fund. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the

purpose of having the fund, acting on behalf of third parties, actively monitor the investments.

39. As per claim 48, Scotto/Barry teaches the method of claim 47 as described above. Scotto also doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance.* Barry, however, discloses an investment embodiment enabling investors' claims to a venture's cash flow and to distributions in liquidation in the event that a venture is unsuccessful as well as a feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

40. As per claim 49, Scotto/Barry teaches the method of claim 45 as described above. Scotto doesn't explicitly teach the *method wherein the seed capitalization*

comprises only the rights in the investment. Barry, however, teaches the usage of rights by investors wherein, for instance, the investor retains the right to abandon by refusing to continue to meet commitments to invest beyond the initial capital infusion (see at least section III). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method wherein the seed capitalization comprises only the rights in the investment. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of preventing excessive risk taking by entrepreneurs.

41. As per claim 51, Scotto/Barry teaches the method of claim 50 as described above. Scotto further teaches the *method comprising: producing each of the productions in a separate first venue and the first commercial capitalization for each of the productions equals a first venue production cost for each of the productions to produce each of the productions in the respective first venue;* disclosing key tasks to be accomplished when developing the first stage priority for a venture which includes reviewing launch requirements (e.g., financial, performance, customer requirements) and defining launch-critical success factors, identifying objectives critical to launch objectives (see at least paragraph 45).

42. As per claim 52, Scotto/Barry teaches the method of claim 51 as described above. Scotto further teaches the *method wherein the milestone investments are milestone productions, further comprising: producing each of the milestone productions in a separate second venue and the second commercial capitalization for each of the milestone productions equals a second venue production cost for each of the milestone productions to produce each of the milestone productions in the respective second*

venue; disclosing the need to reaffirm an economic case for the business plan during the performance of the second stage approach for the venture (see at least paragraph 92, lines 1-3) wherein key tasks to be accomplished when reaffirming the economic case include confirming revenue projections; developing high-level cost estimates and confirming operating cost budgets (see at least paragraph 93).

43. As per claim 52, Scotto/Barry teaches the method of claim 52 as described above. Scotto further teaches the *method comprising: producing some of the milestone productions in both the first venue and the second venue simultaneously;* disclosing instances wherein the end of the first stage approach in some embodiments may overlap the beginning of the second stage approach; and, further wherein such a partially concurrent multi-stage design enables launch decisions in the first stage approach to serve as building blocks for the growth in the second stage approach which serves to compress the time required for reaching business maturity (see at least paragraph 6, lines 14-25).

44. As per claim 54, Scotto/Barry teaches the method of claim 50 as described above. Scotto further teaches the *method wherein determining a milestone for the investment comprises determining an objective performance-based criteria for the production;* disclosing the need to determine key performance objectives, metrics and targets (see at least paragraph 52, lines 8-10), in line with the need to determine key milestone, critical paths and dependencies for the venture (see at least paragraph 55, lines 12-14).

45. As per claim 55, Scotto/Barry teaches the method of claim 54 as described above. Scotto further teaches the *method wherein the objective performance-based criteria is ticket sales and weekly revenue against weekly expenditures;* disclosing the need for an embodiment to determine the tracking of costs and benefits; building of financial targets into the launch including determination of key sensitivities relevant to achieving defined financial targets (e.g., revenue, cost and/or capital targets) (see at least paragraph 61, lines 17-23).

46. As per claim 56, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising: after the receiving step, informing the investor of the first commercial capitalization, the second commercial capitalization, and the maximum capitalization for each of the plurality of investments and the portfolio capitalization;* disclosing the need to determine what funding is available; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15).

47. As per claim 57, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the *method comprising: after the receiving step, informing the investor of the milestone for each of the investments;* disclosing the need to determine key milestones (see at least paragraph 55, lines 12-13).

48. As per claim 58, Scotto/Barry teaches the method of claim 15 as described above. Scotto further teaches the *method comprising: after the receiving step, informing the investor of the seed capitalization, the first commercial capitalization, the second*

commercial capitalization, and the maximum capitalization for each of the plurality of investments and the portfolio capitalization; disclosing the need to determine what funding is available; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15).

49. As per claim 59, Scotto/Barry teaches the method of claim 1 as described above. Scotto further teaches the method comprising: *prior to the receiving step, informing the investor of at least one of the first commercial capitalization, the second commercial capitalization, the milestone, and the maximum capitalization for each of the plurality of investments and the portfolio capitalization; and, after the receiving step, informing the investor of the remainder of at least one of the first commercial capitalization, the second commercial capitalization, the milestone, and the maximum capitalization for each of the plurality of investments and the portfolio capitalization not informed prior to the receiving step;* disclosing the need to determine what funding is available; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15); further disclosing the need to determine key milestones (see at least paragraph 55, lines 12-13).

50. As per claim 60, Scotto/Barry teaches the method of claim 15 as described above. Scotto further teaches the *method comprising: prior to the receiving step, informing the investor of at least one of the seed capitalization, the first commercial capitalization, the second commercial capitalization, and the maximum capitalization for each of the investments and the portfolio capitalization; and, after the receiving step,*

informing the investor of the remainder of the at least one of the seed capitalization, the first commercial capitalization, the second commercial capitalization, and the maximum capitalization for each of the investments and the portfolio not informed prior to the receiving step; disclosing the need to determine what funding is available; what future funding must be obtained; what the overall launch investment is; what resource estimates and investments are required for each project and what the ongoing operating budget is (see at least paragraph 61, lines 10-15).

51. Claims 5, 11, 32, 36, 41 are rejected under U.S.C. 103(a) as being unpatentable over Scotto et al., U.S. Publication 2003/0216926 in view of Barry, Financial Management, v23, n3, Autumn 1994 and in view of Cable et al., Academy of Management Review, v22n1, January 1997.

52. As per claim 5, Scotto/Barry teaches the method of claim 4 as described above. Scotto/Barry doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance further comprising: summing all the unspent portion of the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; and, summing all restricted profit from all the restricted investments.* Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: determining a portfolio cumulated balance further comprising: summing all the unspent portion of the first commercial capitalization and the full amount of the second commercial capitalization of all the

restricted investments; and, summing all restricted profit from all the restricted investments. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

53. As per claim 11, Scotto/Barry teaches the method of claim 10 as described above. Scotto/Barry doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance comprising: summing all of the unspent portion of the commercial capitalizations of first and the second the milestone investments; summing all non-reinvested first milestone profits from all the milestone investments; and, summing all the second milestone profits from all the milestone investments.* Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: determining a portfolio cumulated balance comprising: summing all of the unspent portion of the commercial capitalizations of first and the second the milestone investments; summing all non-reinvested first milestone profits from all the milestone investments; and, summing all the second milestone profits from all the milestone investments. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

54. As per claim 32, Scotto/Barry teaches the method of claim 31 as described above. Scotto/Barry doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance comprising: summing all the unspent portion of the first*

commercial capitalization of all the limited investments; and summing the limited profit. Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: determining a portfolio cumulated balance comprising: summing all the unspent portion of the first commercial capitalization of all the limited investments; and summing the limited profit. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

55. As per claim 36, Scotto/Barry teaches the method of claim 35 as described above. Scotto/Barry doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance comprising: summing all the unspent portion of the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; and, summing the restricted profit.* Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: determining a portfolio cumulated balance comprising: summing all of the unspent portion of the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; and, summing the restricted profit. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

56. As per claim 41, Scotto/Barry teaches the method of claim 40 as described above. Scotto/Barry doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance comprising: summing all of the unspent portion of the first and the second commercial capitalizations of all the milestone investments; summing all first milestone profits from all the milestone investments; and, summing all the second milestone profits from all the milestone investments.* Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: determining a portfolio cumulated balance comprising: summing all of the unspent portion of the first and the second commercial capitalizations of all the milestone investments; summing all first milestone profits from all the milestone investments; and, summing all the second milestone profits from all the milestone investments. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

57. Claims 7, 9, 38, 39 are rejected under U.S.C. 103(a) as being unpatentable over Scotto et al., U.S. Publication 2003/0216926 in view of Barry, Financial Management, v23, n3, Autumn 1994 and further in view of Gompers, Journal of Finance, v50, n5, December 1995.

58. As per claim 7, Scotto/Barry teaches the method of claim 2 as described above. Scotto further teaches the method comprising: *returning an amount of an unspent portion of the first commercial capitalization of the milestone investments to the fund;*

disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) including determining whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25).

Scotto/Barry doesn't explicitly teach the *method comprising: reinvesting a remainder of the unspent portion of the first commercial capitalization into the milestone investments that contains the unspent portion.* Gompers, however, discloses the method wherein venture capitalists determine which projects are likely to succeed and continue funding only those projects that have high potential (see paragraph I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: reinvesting a remainder of the unspent portion of the first commercial capitalization into the milestone investments that contains the unspent portion. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner as a means for continuing funding for projects with successful future prospects.

59. As per claim 9, Scotto/Barry teaches the method of claim 7 as described above. Scotto further teaches the *method comprising: earning a first milestone profit from the milestone investment prior to investing the second portion; and, returning a portion of the first milestone profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21);

Scotto/Barry doesn't explicitly teach the *method comprising: reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit.* Gompers, however, discloses the method wherein venture capitalists determine which projects are likely to succeed and continue funding only those projects that have high potential (see section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner as a manner for continuing funding of projects with successful future prospects.

60. As per claim 38, Scotto/Barry teaches the method of claim 29 as described above. Scotto further teaches the *method comprising: returning an amount of an unspent portion of the first and the second commercial capitalizations of the milestone investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) as well as determining whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25);

Scotto/Barry doesn't explicitly teach the *method comprising: reinvesting a remainder of the unspent portion of the first commercial capitalization into the milestone investments that contains the unspent portion.* Gompers, however, discloses the method wherein venture capitalists determine which projects are likely to succeed and continue funding only those projects that have high potential (see section I). It would have been obvious

to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: reinvesting a remainder of the unspent portion of the first commercial capitalization into the milestone investments that contains the unspent portion. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner as a means for continuing funding for projects with successful future prospects.

61. As per claim 39, Scotto/Barry teaches the method of claim 38 as described above. Scotto further teaches the *method comprising: earning a first milestone profit from the milestone investment prior to investing the second portion; and, returning a portion of the first milestone profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21).

Scotto/Barry doesn't explicitly teach the *method comprising: reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit.* Gompers, however, discloses the method wherein venture capitalists determine which projects are likely to succeed and continue funding only those projects that have high potential (see section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner as a means for continuing funding for projects with successful future prospects.

62. Claims 13, 17, 43, 47 are rejected under U.S.C. 103(a) as being unpatentable over Scotto et al., U.S. Publication 2003/0216926 in view of Barry, Financial Management, v23, n3, Autumn 1994; in view of Gompers, Journal of Finance, v50, n5, December 1995; and further in view of Cable et al., Academy of Management Review, v22n1, January 1997.

63. As per claim 13, Scotto/Barry teaches the method of claim 2 as described above. Scotto further teaches *a method comprising the following limitations:*

- *Returning all of an unspent portion of the first commercial capitalization and a full amount of the second commercial capitalization of the restricted investments to the fund; returning an amount of an unspent portion of the first commercial capitalization of the milestone investments to the fund; returning the unspent portion of the second commercial capitalization of the milestone investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) as well as determining whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25); and,

- *Earning a restricted profit from the restricted investments; and, returning the restricted profit to the fund; earning a first milestone profit from the milestone investment prior to investing the second portion; and, returning an amount of the first milestone profit to the fund; earning a second milestone profit from the milestone investment after investing the second portion; and, returning a full*

> *amount of the second milestone profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21);

Scotto/Barry doesn't explicitly teach the *method comprising: reinvesting a remainder of the unspent portion of the first commercial capitalization into the milestone investments that contains the unspent portion; and, reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit.* Gompers, however, discloses the method wherein venture capitalists determine which projects are likely to succeed and continue funding only those projects that have high potential (see section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: reinvesting a remainder of the unspent portion of the first commercial capitalization into the milestone investments that contains the unspent portion. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner as a means for continuing funding for projects with successful future prospects.

Scotto/Barry also doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance further comprising: summing all of the unspent portion of the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; summing all of the unspent portion of the first and the second commercial capitalizations of all the milestone investments; summing all restricted profit from all the restricted investments; summing all non-reinvested first milestone profits from all the milestone investments; and, summing all the second*

milestone profits from all the milestone investments. Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: determining a portfolio cumulated balance further comprising: summing all of the unspent portion of the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; summing all of the unspent portion of the first and the second commercial capitalizations of all the milestone investments; summing all restricted profit from all the restricted investments; summing all non-reinvested first milestone profits from all the milestone investments; and, summing all the second milestone profits from all the milestone investments. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

Scotto also doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance.* Barry, however, discloses an investment embodiment enabling investors' claims to a venture's cash flow and to distributions in liquidation in the event that a venture is unsuccessful as well as a feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the

capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

64. As per claim 17, Scotto/Barry teaches the method of claim 16 as described above. Scotto further teaches *a method comprising:*

- *Returning all of an unspent portion of the seed capitalization to the fund; returning all of an unspent portion of the first commercial capitalization and a full amount of the second commercial capitalization of the restricted investments to the fund; returning an amount of an unspent portion of the first commercial capitalization of the milestone investments to the fund; and, returning the unspent portion of the second commercial capitalization of the milestone investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) as well as determining whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25); and

- *Earning a restricted profit from the restricted investments; and, returning the restricted profit to the fund; earning a first milestone profit from the milestone*

investment prior to investing the second portion; and, returning a portion of the first milestone profit to the fund; earning a second milestone profit from the milestone investment after investing the second portion; and, returning a full amount of the second milestone profit to the fund; disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21);

Scotto/Barry doesn't explicitly teach the *method comprising: reinvesting a remainder of the unspent portion of the first commercial capitalization into the milestone investments containing the unspent portion; and, reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit.* Gompers, however, discloses the method wherein venture capitalists determine which projects are likely to succeed and continue funding only those projects that have high potential (see section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: reinvesting a remainder of the unspent portion of the first commercial capitalization into the milestone investments that contains the unspent portion. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner as a means for continuing the funding of projects with successful future prospects.

Scotto/Barry doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance comprising: summing all of the unspent portion of the seed capitalization of all investments; summing all of the unspent portion of the first commercial capitalization and the full amount of the second commercial capitalization of*

all the restricted investments; summing all of the unspent portion of the first and the second commercial capitalizations of all the milestone investments; summing all restricted profit from all the restricted investments; summing all non-reinvested first milestone profits from all the milestone investments; summing all the second milestone profits from all the milestone investments. Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: determining a portfolio cumulated balance comprising: summing all of the unspent portion of the seed capitalization of all investments; summing all of the unspent portion of the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; summing all of the unspent portion of the first and the second commercial capitalizations of all the milestone investments; summing all restricted profit from all the restricted investments; summing all non-reinvested first milestone profits from all the milestone investments; summing all the second milestone profits from all the milestone investments. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

Scotto doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance.* Barry, however, discloses an investment embodiment

enabling investors' claims to a venture's cash flow and to distributions in liquidation in the event that a venture is unsuccessful as well as a feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

65. As per claim 43, Scotto/Barry teaches the method of claim 29 as described above. Scotto further teaches the *method comprising:*

- *Returning all of an unspent portion of the first commercial capitalization of the limited investments to the fund; returning all of an unspent portion of the first commercial capitalization and a full amount of the second commercial capitalization of the restricted investments to the fund; and, returning all of an unspent portion of the first and the second commercial capitalizations of the milestone investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) as well as determining whether the venture's second stage projects are still valid and whether they

should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25);

- *Earning a limited profit from the limited investments; returning the limited profit to the fund; earning an restricted profit from the restricted investments; returning the restricted profit to the fund; earning a first milestone profit from the milestone investment prior to investing the second portion; returning a portion of the first milestone profit to the fund; earning a second milestone profit from the milestone investment after investing the second portion; and, returning a full amount of the second milestone profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21);

Scotto/Barry doesn't explicitly teach the *method comprising: reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit.* Gompers, however, discloses the method wherein venture capitalists determine which projects are likely to succeed and continue funding only those projects that have high potential (see section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner as a means for continuing funding for projects with successful future prospects.

Scotto/Barry doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance comprising: summing all the unspent portion of the first commercial capitalization of all the limited investments; summing all limited profits; summing all of the unspent portions of the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; summing all the restricted profits; summing all the first milestone profits; and, summing all the second milestone profits.* Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: determining a portfolio cumulated balance comprising: summing all the unspent portion of the first commercial capitalization of all the limited investments; summing all limited profits; summing all of the unspent portions of the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; summing all the restricted profits; summing all the first milestone profits; and, summing all the second milestone profits. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

Scotto also doesn't explicitly teach the *method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance.* Barry, however, discloses an investment embodiment

enabling investors' claims to a venture's cash flow and to distributions in liquidation in the event that a venture is unsuccessful as well as a feature that provides participation on the upside (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto to include the method comprising: when the portfolio cumulated balance is less than or equal to the capital contribution, distributing, to the investor, the entire portfolio cumulated balance; and, when the portfolio cumulated balance is greater than the capital contribution, distributing, to the investor, a portion of the portfolio cumulated balance equal to the capital contribution, and a share of the remaining portion of the portfolio cumulated balance. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto in this manner for the purpose of providing the investor with a better chance of recovering his investment.

66. As per claim 47, Scotto/Barry teaches the method of claim 46 as described above. Scotto further teaches the method comprising:

- *Returning all of an unspent portion of the seed capitalization and the first commercial capitalization of the limited investments to the fund; returning all of an unspent portion of the seed capitalization and the first commercial capitalization and a full amount of the second commercial capitalization of the restricted investments to the fund; and, returning all of an unspent portion of the seed capitalization, and the first and the second commercial capitalizations of the milestone investments to the fund;* disclosing the reviewing of results and taking of actions as appropriate as well as reviewing and revising second stage approach growth (see at least paragraph 68, lines 7-8) as well as determining

whether the venture's second stage projects are still valid and whether they should continue or be stopped and/or revised (see at least paragraph 76, lines 21-25);

- *Earning a limited profit from the limited investments; and, returning the limited profit to the fund; earning a restricted profit from the restricted investments; and, returning the restricted profit to the fund; earning a first milestone profit from the milestone investment prior to investing the second portion; and, returning a portion of the first milestone profit to the fund; earning a second milestone profit from the milestone investment after investing the second portion; and, returning a full amount of the second milestone profit to the fund;* disclosing the need to determine whether the venture will turn a profit and if so, how and when; and what the exit points and exit strategies are (see at least paragraph 35, lines 18-21).

Scotto/Barry doesn't explicitly teach the *method comprising: reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit.* Gompers, however, discloses the method wherein venture capitalists determine which projects are likely to succeed and continue funding only those projects that have high potential (see section I). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: reinvesting a remainder of the first milestone profit into the milestone investment that earned the profit. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner as a means for continuing funding for projects with successful future prospects.

Scotto/Barry doesn't explicitly teach the *method comprising: determining a portfolio cumulated balance comprising: summing all the unspent portion of the seed capitalization and the first commercial capitalization of all the limited investments; summing all limited profits; summing all of the unspent portions of the seed capitalization and the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; summing all the restricted profits; summing all the first milestone profits; and, summing all the second milestone profits.* Cable, however, discloses the method wherein performance is measured by total returns over a time period (see at least section II). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method comprising: summing all the unspent portion of the seed capitalization and the first commercial capitalization of all the limited investments; summing all limited profits; summing all of the unspent portions of the seed capitalization and the first commercial capitalization and the full amount of the second commercial capitalization of all the restricted investments; summing all the restricted profits; summing all the first milestone profits; and, summing all the second milestone profits. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of identifying profitable high-return ventures.

67. Claim 19 is rejected under U.S.C. 103(a) as being unpatentable over Scotto et al., U.S. Publication 2003/0216926 in view of Barry, Financial Management, v23, n3, Autumn 1994 and further in view of Wallman, U.S. Patent 7,117,176.

68. As per claim 19, Scotto/Barry teaches the method of claim 1 as described above. Scotto/Barry, doesn't explicitly teach the *method further comprising: determining criteria for the investor; and selecting the investor based on the criteria.* Wallman, however, discloses where information is elicited to obtain investor information such as suitability for certain types of investments including whether the investor qualifies as an accredited or qualified investor and whether investor satisfies certain criteria (see at least column 29, lines 37-44). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method further comprising: determining criteria for the investor; and selecting the investor based on the criteria. One of ordinary skill in the art would have been motivated to expand the methodology of Scotto/Barry in this manner for the purpose of ensuring compliance with various legal requirements under various federal and state laws.

69. Claim 50 is rejected under U.S.C. 103(a) as being unpatentable over Scotto et al., U.S. Publication 2003/0216926 in view of Barry, Financial Management, v23, n3, Autumn 1994 and further in view of Maerz et al., U.S. Publication 2004/0078314.

70. As per claim 50, Scotto/Barry teaches the method of claim 1 as described above. Scotto/Barry doesn't explicitly teach the *method wherein the plurality of investments are productions.* Maerz, however, discloses investments in entertainment creations, which may include theatre productions, operas, and movies (see at least paragraph 95, lines 8-11). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the methodology of Scotto/Barry to include the method wherein the plurality of investments are productions. One of ordinary skill in the art would have been

motivated to expand the methodology of Scotto/Barry in this manner for the purpose of expanding the field of investments to which the invention may be applied.

Conclusion

71. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

- Fried et al., Financial Management, v23 n2, Autumn 1994, teaches a venture capital decision-making process.
- Norton, Entrepreneurship: Theory & Practice, v20 n2, Winter 1995, teaches about capital allocation in a venture capital process.
- Crapo, U.S. Patent 5,987,433, teaches a time horizon based financial model for investing towards attaining at least one financial objective.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clifford Madamba whose telephone number is 571-270-1239. The examiner can normally be reached on Mon-Thu 7:30-5:00 EST Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Reagan can be reached on 571-270-1245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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April 23, 2007

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